

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-1783-PWS-E TCEQ ID: RN102404399 CASE NO.: 36811
RESPONDENT NAME: AMK ENTERPRISES, LLC DBA THE OLDE TYMER

Page 1 of 2

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATIONS OCCURRED: 28295 Interstate Highway 10 West, Boerne, Bexar County

TYPE OF OPERATION: Convenience store with a public water supply

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on June 15, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Phillip M. Goodwin, Litigation Division, MC 175, (512) 239-0675
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Stephen Thompson, Water Enforcement Section, MC 169, (512) 239-2558

TCEQ Regional Contact: Mr. Tom Haberle, San Antonio Regional Office, MC R-13, (210) 403-4050

Respondent: Mr. Amina Maliek, Director, AMK Enterprises, LLC dba The Olde Tymer, 809 Almadin Dr., San Antonio, Texas 78258

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint</p> <p><input checked="" type="checkbox"/> Routine</p> <p><input type="checkbox"/> Enforcement Follow-up</p> <p><input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: November 1, 2008</p> <p>Date of NOE Relating to this Case: November 6, 2008</p> <p>Background Facts: The EDPRP was filed on March 9, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on March 10, 2009, as evidenced by the signature on the card. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>PWS:</p> <ol style="list-style-type: none"> Failed to collect all repeat bacteriological monitoring samples within 24 hours of being notified of a coliform-found result during the months of October 2007 and October 2008 [30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii)]. Failed to collect at least five distribution coliform samples during the month following a total coliform positive sample result and failed to provide public notice of the failure to collect the proper number of samples [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(B)]. Failed to provide public notice of the maximum contaminant level ("MCL") exceedance in June 2008 [30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.031(a)]. 	<p>Total Assessed: \$4,867</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p><input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$4,867</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 180 days, comply with coliform monitoring requirements and provide water that meets the provisions regarding microbial contaminants. Within 195 days, submit written certification demonstrating compliance with the Ordering Provision above.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	10-Nov-2008	Screening	14-Nov-2008	EPA Due	1-Mar-2008
	PCW	14-Nov-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	AMK Enterprises, LLC dba The Olde Tymer		
Reg. Ent. Ref. No.	RN102404399		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	36811	No. of Violations	3
Docket No.	2008-1783-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Stephen Thompson
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$2,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 107.0% Enhancement **Subtotals 2, 3, & 7** \$2,140

Notes Enhancement is due to 16 Notices of Violation ("NOVs") containing same or similar violations as those in the current enforcement action, one dissimilar NOV, and one agreed final enforcement order without a denial of liability.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit 0.0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$727
Approx. Cost of Compliance \$675
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$4,140

OTHER FACTORS AS JUSTICE MAY REQUIRE 17.6% **Adjustment** \$727

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Penalty enhancement recommended for the recovery of avoided costs of compliance.

Final Penalty Amount \$4,867

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$4,867

DEFERRAL 0.0% Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$4,867

Screening Date 14-Nov-2008

Docket No. 2008-1783-PWS-E

PCW

Respondent AMK Enterprises, LLC dba The Olde Tymer

Policy Revision 2 (September 2002)

Case ID No. 36811

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102404399

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	16	80%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more*	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 107%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement is due to 16 Notices of Violation ("NOVs") containing same or similar violations as those in the current enforcement action, one dissimilar NOV, and one agreed final enforcement order without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 107%

Screening Date 14-Nov-2008		Docket No. 2008-1783-PWS-E		PCW	
Respondent AMK Enterprises, LLC dba The Olde Tymer		<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 36811		<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN102404399					
Media [Statute] Public Water Supply					
Enf. Coordinator Stephen Thompson					
Violation Number		<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>			
Rule Cite(s)		<div style="border: 1px solid black; padding: 5px; text-align: center;">30 Tex. Admin. Code § 290.109(c)(3)(A)(ii)</div>			
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failed to collect all repeat bacteriological monitoring samples within 24 hours of being notified of a coliform-found result during the months of October 2007 and October 2008.</div>			
				Base Penalty	<div style="border: 1px solid black; padding: 2px; text-align: right;">\$1,000</div>
>> Environmental, Property and Human Health Matrix					
OR	Release		Harm		
	Major	Moderate	Minor		
	Actual	Potential		Percent	<div style="border: 1px solid black; padding: 2px; text-align: right;">25%</div>
		x			
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
					Percent
					<div style="border: 1px solid black; padding: 2px; text-align: right;">0%</div>
Matrix Notes	<div style="border: 1px solid black; padding: 5px;">Failure to take all required samples may expose the public to a significant amount of undetected contaminants which would exceed levels that are protective of human health.</div>				
				Adjustment	<div style="border: 1px solid black; padding: 2px; text-align: right;">\$750</div>
					<div style="border: 1px solid black; padding: 2px; text-align: right;">\$250</div>
Violation Events					
Number of Violation Events		<div style="border: 1px solid black; padding: 2px; text-align: center;">2</div>	Number of violation days		
		<div style="border: 1px solid black; padding: 2px; text-align: center;">62</div>			
mark only one with an x	daily	<div style="border: 1px solid black; padding: 2px;"></div>	Violation Base Penalty <div style="border: 1px solid black; padding: 2px; text-align: right;">\$500</div>		
	weekly	<div style="border: 1px solid black; padding: 2px;"></div>			
	monthly	<div style="border: 1px solid black; padding: 2px; text-align: center;">x</div>			
	quarterly	<div style="border: 1px solid black; padding: 2px;"></div>			
	semiannual	<div style="border: 1px solid black; padding: 2px;"></div>			
	annual	<div style="border: 1px solid black; padding: 2px;"></div>			
	single event	<div style="border: 1px solid black; padding: 2px;"></div>			
<div style="border: 1px solid black; padding: 5px; text-align: center;">Two monthly events are recommended.</div>					
Good Faith Efforts to Comply		0.0% Reduction		<div style="border: 1px solid black; padding: 2px; text-align: right;">\$0</div>	
		Before NOV	NOV to EDRP/Settlement Offer		
Extraordinary	<div style="border: 1px solid black; padding: 2px;"></div>	Notes <div style="border: 1px solid black; padding: 5px;">The Respondent does not meet the good faith criteria for this violation.</div>			
Ordinary	<div style="border: 1px solid black; padding: 2px;"></div>				
N/A	x (mark with x)				
				Violation Subtotal <div style="border: 1px solid black; padding: 2px; text-align: right;">\$500</div>	
Economic Benefit (EB) for this violation		Statutory Limit Test			
Estimated EB Amount <div style="border: 1px solid black; padding: 2px; text-align: right;">\$220</div>		Violation Final Penalty Total <div style="border: 1px solid black; padding: 2px; text-align: right;">\$1,217</div>			
				This violation Final Assessed Penalty (adjusted for limits) <div style="border: 1px solid black; padding: 2px; text-align: right;">\$1,217</div>	

Economic Benefit Worksheet

Respondent AMK Enterprises, LLC dba The Olde Tymer

Case ID No. 36811

Reg. Ent. Reference No. RN102404399

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$200	1-Oct-2007	31-Oct-2008	2.00	\$20	\$200	\$220
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount necessary to collect four repeat samples within 24 hours of being notified of a coliform-found result, calculated for the months in which no repeat sampling occurred.

Approx. Cost of Compliance

\$200

TOTAL

\$220

Screening Date 14-Nov-2008		Docket No. 2008-1783-PWS-E		PCW																
Respondent AMK Enterprises, LLC dba The Olde Tymer		<small>Policy Revision 2 (September 2002)</small>																		
Case ID No. 36811		<small>PCW Revision October 30, 2008</small>																		
Reg. Ent. Reference No. RN102404399																				
Media [Statute] Public Water Supply																				
Enf. Coordinator Stephen Thompson																				
Violation Number		2																		
Rule Cite(s)		30 Tex. Admin. Code §§ 290.109(c)(2)(F) and 290.122(c)(2)(B)																		
Violation Description		<p>Failed to collect at least five distribution coliform samples during the month following a total coliform positive sample result and failed to provide public notice of the failure to collect the proper number of samples. Specifically, at the time of the record review, it was documented that the Respondent collected only three samples in November 2007, one sample in December 2007 and two samples in June 2008 and failed to provide public notice in June 2008.</p>																		
Base Penalty				\$1,000																
>> Environmental, Property and Human Health Matrix																				
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="text-align: center;">x</td> <td></td> <td></td> </tr> </table>					Harm			Release	Major	Moderate	Minor	Actual				Potential	x		
		Harm																		
	Release	Major	Moderate	Minor																
Actual																				
Potential	x																			
Percent 25%																				
>> Programmatic Matrix																				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td></td> <td></td> <td></td> </tr> </table>					Major	Moderate	Minor	Falsification				Percent 0%								
	Major	Moderate	Minor																	
Falsification																				
Matrix Notes	<p>Failure to take all required samples may expose the public to a significant amount of undetected contaminants which would exceed levels that are protective of human health.</p>																			
Adjustment				\$750																
				\$250																
Violation Events																				
Number of Violation Events		3																		
		.91 Number of violation days																		
mark only one with an x	daily																			
	weekly																			
	monthly	x																		
	quarterly																			
	semiannual																			
	annual																			
	single event																			
Violation Base Penalty				\$750																
Three monthly events are recommended.																				
Good Faith Efforts to Comply		0.0% Reduction		\$0																
		Before NOV NOV to EDRP/Settlement Offer																		
Extraordinary																				
Ordinary																				
N/A		x (mark with x)																		
Notes		<p>The Respondent does not meet the good faith criteria for this violation.</p>																		
Violation Subtotal				\$750																
Economic Benefit (EB) for this violation		Statutory Limit Test																		
Estimated EB Amount		\$268		Violation Final Penalty Total \$1,825																
This violation Final Assessed Penalty (adjusted for limits)				\$1,825																

Economic Benefit Worksheet

Respondent AMK Enterprises, LLC dba The Olde Tymer

Case ID No. 36811

Reg. Ent. Reference No. RN102404399

Media Public Water Supply

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$225	1-Nov-2007	30-Jun-2008	1.58	\$18	\$225	\$243
Other (as needed)	\$25	1-Jun-2008	30-Jun-2008	0.00	\$0	\$25	\$25

Notes for AVOIDED costs

The avoided costs include the amount to take the proper number of distribution coliform samples for each month following a total coliform positive sample result and the amount to provide public notice, calculated for the months in which proper sampling and public notice did not occur.

Approx. Cost of Compliance

\$250

TOTAL

\$268

Screening Date 14-Nov-2008		Docket No. 2008-1783-PWS-E		PCW																										
Respondent AMK Enterprises, LLC dba The Olde Tymer				<i>Policy Revision 2 (September 2002)</i>																										
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Media [Statute] Public Water Supply																														
Enf. Coordinator Stephen Thompson																														
Violation Number		<div style="border: 1px solid black; padding: 2px;">3</div>																												
Rule Cite(s)		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code §§ 290.109(f)(3) and 290.122(b)(2)(B) and Tex. Health & Safety Code § 341.031(a)</div>																												
Violation Description		<div style="border: 1px solid black; padding: 5px;">Exceeded the maximum contaminant level ("MCL") for total coliform in May, June and October 2008 and failed to provide public notice of the MCL exceedance in June 2008.</div>																												
Base Penalty					<div style="border: 1px solid black; padding: 2px;">\$1,000</div>																									
>> Environmental, Property and Human Health Matrix																														
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Release</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td></td> <td style="text-align: center;">X</td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td></td> <td></td> <td></td> <td></td> </tr> </table>						Harm					Major	Moderate	Minor		Release					Actual		X			Potential				
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	Falsification	Major	Moderate	Minor																										
Matrix Notes		<div style="border: 1px solid black; padding: 5px;">The presence of coliform bacteria is an indication that the water is contaminated with significant amounts of contaminants that do not exceed levels that are protective of human health.</div>																												
Adjustment					<div style="border: 1px solid black; padding: 2px;">\$750</div>																									
					<div style="border: 1px solid black; padding: 2px;">\$250</div>																									
Violation Events																														
Number of Violation Events		<div style="border: 1px solid black; padding: 2px;">3</div>	Number of violation days																											
		<div style="border: 1px solid black; padding: 2px;">92</div>																												
mark only one with an x	daily	<div style="border: 1px solid black; padding: 2px;"></div>	Violation Base Penalty <div style="border: 1px solid black; padding: 2px;">\$750</div>																											
	weekly	<div style="border: 1px solid black; padding: 2px;"></div>																												
	monthly	X																												
	quarterly	<div style="border: 1px solid black; padding: 2px;"></div>																												
	semiannual	<div style="border: 1px solid black; padding: 2px;"></div>																												
	annual	<div style="border: 1px solid black; padding: 2px;"></div>																												
	single event	<div style="border: 1px solid black; padding: 2px;"></div>																												
Three monthly events are recommended.																														
Good Faith Efforts to Comply																														
		<div style="border: 1px solid black; padding: 2px;">0.0%</div>	Reduction		<div style="border: 1px solid black; padding: 2px;">\$0</div>																									
		Before NOV	NOV to EDPRP/Settlement Offer																											
Extraordinary		<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;"></div>																											
Ordinary		<div style="border: 1px solid black; padding: 2px;"></div>	<div style="border: 1px solid black; padding: 2px;"></div>																											
N/A		X	(mark with x)																											
Notes		<div style="border: 1px solid black; padding: 5px;">The Respondent does not meet the good faith criteria for this violation.</div>																												
Violation Subtotal					<div style="border: 1px solid black; padding: 2px;">\$750</div>																									
Economic Benefit (EB) for this violation																														
		Statutory Limit Test																												
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px;">\$239</div>	Violation Final Penalty Total		<div style="border: 1px solid black; padding: 2px;">\$1,825</div>																									
This violation Final Assessed Penalty (adjusted for limits)					<div style="border: 1px solid black; padding: 2px;">\$1,825</div>																									

Economic Benefit Worksheet

Respondent AMK Enterprises, LLC dba The Olde Tymer

Case ID No. 36811

Reg. Ent. Reference No. RN102404399

Media Public Water Supply

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$200	1-May-2008	31-Oct-2008	1.42	\$14	\$200	\$214
Other (as needed)	\$25	1-Jun-2008	30-Jun-2008	0.00	\$0	\$25	\$25

Notes for AVOIDED costs

Avoided costs include additional oversight to properly treat the water to prevent the presence of coliform and to provide public notice. The date required is the first day of the month of the first MCL exceedance. The final date is the last day of the month of the latest MCL exceedance.

Approx. Cost of Compliance

\$225

TOTAL

\$239

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603030156	AMK Enterprises, LLC	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN102404399	THE OLDE TYMER	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	36491	
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0150363	
Location:	28295 IH 10 W, BEXAR COUNTY, TX	Rating Date: 9/1/2008	Repeat Violator: NO	
TCEQ Region:	REGION 13 - SAN ANTONIO			
Date Compliance History Prepared:	November 12, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 12, 2003 to November 12, 2008			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Stephen Thompson Phone: (512) 239-2558

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? AMK Enterprises, LLC
4. If Yes, who was/were the prior owner(s)? Dos Smaquets, Inc.
5. When did the change(s) in ownership occur? 10/29/2004

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 06/29/2007

ADMINORDER 2006-0381-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 04/2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 07/2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)

Description: Failure to post a PN for not collecting any routine monitoring samples in 07/2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 08/2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)

Description: Failure to post a PN for not collecting any routine monitoring samples in 08/2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 09/2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)

Description: Failure to post a PN for not collecting any routine monitoring samples in 09/2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 10/2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)

Description: Failure to post a PN for not collecting any routine monitoring samples in 10/2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 11/2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)

Description: Failure to post a PN for not collecting any routine monitoring samples in 11/2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 12/2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)

Description: Failure to post a PN for not collecting any routine monitoring samples in 12/2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 01/2006.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)

Description: Failure to post a PN for not collecting any routine monitoring samples in 01/2006.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	05/31/2005	(458258)
2	08/25/2005	(459532)
3	10/03/2005	(459786)
4	10/31/2005	(459797)
5	12/01/2005	(459804)
6	12/21/2005	(459809)
7	01/25/2006	(459814)
8	02/23/2006	(459848)
9	03/29/2006	(460878)
10	05/30/2007	(561499)
11	11/06/2008	(707433)
12	11/06/2008	(707452)
13	11/06/2008	(707456)
14	11/06/2008	(707462)
15	11/06/2008	(707468)
16	11/06/2008	(707479)
17	11/07/2008	(707550)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 05/31/2005 (458258)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 04/2005.

Date: 08/25/2005 (459532)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 07/2005.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)
 Description: Failure to post a PN for not collecting any routine monitoring samples in 07/2005.
 Date: 10/03/2005 (459786)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 5A THC Chapter 341, SubChapter A 341.033(d)
 Description: Failure to collect any routine monitoring samples in 08/2005.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)
 Description: Failure to post a PN for not collecting any routine monitoring samples in 08/2005.
 Date: 10/31/2005 (459797)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 5A THC Chapter 341, SubChapter A 341.033(d)
 Description: Failure to collect any routine monitoring samples in 09/2005.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)
 Description: Failure to post a PN for not collecting any routine monitoring samples in 09/2005.
 Date: 12/01/2005 (459804)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 5A THC Chapter 341, SubChapter A 341.033(d)
 Description: Failure to collect any routine monitoring samples in 10/2005.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)
 Description: Failure to post a PN for not collecting any routine monitoring samples in 10/2005.
 Date: 12/21/2005 (459809)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 5A THC Chapter 341, SubChapter A 341.033(d)
 Description: Failure to collect any routine monitoring samples in 11/2005.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)
 Description: Failure to post a PN for not collecting any routine monitoring samples in 11/2005.
 Date: 01/25/2006 (459814)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 5A THC Chapter 341, SubChapter A 341.033(d)
 Description: Failure to collect any routine monitoring samples in 12/2005.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)
 Description: Failure to post a PN for not collecting any routine monitoring samples in 12/2005.
 Date: 02/23/2006 (459848)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 5A THC Chapter 341, SubChapter A 341.033(d)
 Description: Failure to collect any routine monitoring samples in 01/2006.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)
 Description: Failure to post a PN for not collecting any routine monitoring samples in 01/2006.
 Date: 05/30/2007 (561499)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)
 Description: Failure to provide the water system with a well flow measuring device.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)
 Description: Failure to provide the well with a casing vent.
 Date: 01/31/2008 (707433)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
 Description: TCR Repeat Monitoring Violation 10/2007 - Failure to collect any repeats following a coliform found result.
 Date: 02/14/2008 (707452)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
 Description: TCR Increase Monitoring Violation 11/2007 - Failure to collect all 5 distribution samples following a coliform found month.
 Date: 02/21/2008 (707456)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
 Description: TCR Increase Monitoring Violation 12/2007 - Failure to collect all 5 distribution samples following a coliform found month.
 Date: 06/02/2008 (707462)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
 Description: TCR MCL Violation 05/2008 - System exceeded a Maximum Contaminant Level (MCL) Violation.
 Date: 06/09/2008 (707468)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
 Description: TCR MCL Violation 06/2008 - System exceeded a Maximum Contaminant Level (MCL) Violation.
 Date: 10/20/2008 (707479)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(B)
 Description: TCR PN MCL Violation 06/2008 - Failure to post a public notice for exceeding a Maximum Contaminant Level Violation.
 Date: 10/20/2008 (707479)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
 Description: TCR MCL Violation 10/2008 - System exceeded a Maximum Contaminant Level (MCL) Violation.
 Date: 11/06/2008 (707479)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
 Description: TCR Repeat Monitoring Violation 10/2008 - Failure to collect all repeats following a coliform found result.
 Date: 11/06/2008 (707468)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
 Description: TCR Increase Monitoring Violation 06/2008 - Failure to collect all 5 distribution samples following a coliform found month.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
 Description: TCR PN Increase Monitoring Violation 06/2008 - Failure to post public notice for not collecting all 5 distribution samples following a coliform found month.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AMK ENTERPRISES, LLC DBA
THE OLDE TYMER;
RN102404399**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2008-1783-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is AMK Enterprises, LLC dba The Olde Tymer ("AMK").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. AMK owns and/or operates a convenience store with a public water supply located at 28295 Interstate Highway 10 West, Boerne, Bexar County, Texas (the "Facility").
2. The Facility has three service connections and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water supply system as defined in 30 TEX. ADMIN. CODE § 290.38(63).
3. During an inspection on November 1, 2008, a TCEQ San Antonio Regional Office investigator documented that AMK:
 - a. Failed to collect all repeat bacteriological monitoring samples within 24 hours of being notified of a coliform-found result during the months of October 2007 and October 2008;
 - b. Failed to collect at least five distribution coliform samples during the month following a total coliform positive sample result and failed to provide public notice of

the failure to collect the proper number of samples. Specifically, AMK collected only three samples in November 2007, one sample in December 2007, and two samples in June 2008, and failed to provide public notice in June, 2008; and

- c. Exceeded the maximum contaminant level ("MCL") for total coliform in May, June, and October 2008 and failed to provide public notice of the MCL exceedance in June 2008.
4. AMK received notice of the violations on or about November 11, 2008.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of AMK Enterprises, LLC dba The Olde Tymer" (the "EDPRP") in the TCEQ Chief Clerk's office on March 9, 2009.
6. By letter dated March 9, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served AMK with notice of the EDPRP. According to the return receipt "green card", AMK received notice of the EDPRP on March 10, 2009, as evidenced by the signature on the card.
7. More than 20 days have elapsed since AMK received notice of the EDPRP provided by the Executive Director. AMK failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, AMK is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., AMK failed to collect all repeat bacteriological monitoring samples within 24 hours of being notified of a coliform-found result during the months of October 2007 and October 2008, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii).
3. As evidenced by Finding of Fact No. 3.b., AMK failed to collect at least five distribution coliform samples during the month following a total coliform positive sample result and failed to provide public notice of the failure to collect the proper number of samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(B).

4. As evidenced by Finding of Fact No. 3.c., AMK exceeded the MCL for total coliform in May, June, and October 2008 and failed to provide public notice of the MCL exceedance in June 2008, in violation of 30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.031(a).
5. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served AMK with proper notice of the EDPRP as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
6. As evidenced by Finding of Fact No. 7, AMK failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against AMK and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against AMK for violations of the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of four thousand eight hundred sixty-seven dollars (\$4,867.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b).
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. AMK is assessed an administrative penalty in the amount of four thousand eight hundred sixty-seven dollars (\$4,867.00) for violations of state statutes and TCEQ rules. The payment of this administrative penalty and AMK's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the

penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: AMK Enterprises, LLC dba The Olde Tymer; Docket No. 2008-1783-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. AMK shall undertake the following technical requirements:

- a. Within 180 days after the effective date of this Order, AMK shall comply with coliform monitoring requirements and provide water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109.
- b. Within 195 days after the effective date of this Order, AMK shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

AMK shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14520 Judson Road
San Antonio, Texas 78233-4480

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon AMK. AMK is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by AMK shall be made in writing to the Executive Director. Extensions are not effective until AMK receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to AMK if the Executive Director determines that AMK has not complied with one or more of the terms or conditions in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF PHILLIP M. GOODWIN

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Phillip M. Goodwin. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of AMK Enterprises, LLC dba The Olde Tymer" (the "EDPRP") was filed with the Office of the Chief Clerk on March 9, 2009.

I sent the EDPRP to AMK Enterprises, LLC dba The Olde Tymer ("AMK") at its last known address on March 9, 2009 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," AMK received notice of the EDPRP on March 10, 2009, as evidenced by the signature on the card.

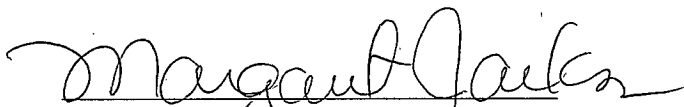
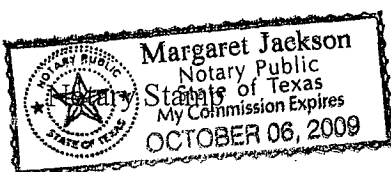
More than 20 days have elapsed since AMK received notice of the EDPRP. AMK failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference".



Phillip M. Goodwin
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Phillip M. Goodwin, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 2 day of April, A.D., 2009.



Notary Signature